

Message Text

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70

ACTION ARA-20

INFO OCT-01 ISO-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

EB-11 FRB-03 H-03 INR-11 INT-08 L-03 LAB-06 NSAE-00

NSC-07 PA-04 RSC-01 AID-20 CIEP-03 SS-20 STR-08

TAR-02 TRSE-00 PRS-01 SP-03 OMB-01 SWF-02 FEA-02

INRE-00 NSCE-00 SSO-00 USIE-00 DRC-01 /163 W

----- 026529

R 092140Z AUG 74

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 9768

INFO AMEMBASSY BOGOTA

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY LIMA

AMEMBASSY MONTEVIDEO

AMEMBASSY QUITO

AMEMBASSY BUENOS AIRES

LIMITED OFFICIAL USE SANTIAGO 4779

EO 11652: N/A

TAGS: EGEN, EFIN, CI

SUBJECT: CHILEAN FOREIGN INVESTMENT STATUTE AND ANCOM
DECISION 24

REF: SANTIAGO 4165

1. SUMMARY: PRESS REPORTS FONOFFICE'S PRELIMINARY REJECTION
OF BOLIVIAN/PERUVIAN COMPLAINTS AGAINST CHILEAN FOREIGN INVEST-
MENT CODE. GOC APPEARS DETERMINED TO PURSUE POLICIES IT BELIEVES
NECESSARY FOR ITS DEVELOPMENT WHETHER OR NOT ITS PACT PARTNERS
APPROVE. END SUMMARY.

2. ACCORDING TO PRESS AUG 9, UNIDENTIFIED FONOFF SPOKESMAN
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SAID IT PREMATURE TO COMMENT IN DEPTH ON STATEMENTS ATTRIBUTED

TO PERUVIAN AND BOLIVIAN MINISTERS REGARDING CHILE'S FOREIGN INVESTMENT CODE. IF STATEMENTS CONFIRMED, SPOKESMAN SAID, THEY EXAGGERATE, BECAUSE (1) GOC HAS PROMISED TO RESPECT ALL INTERNATIONAL COMMITMENTS IT HAS VALIDLY CONTRACTED; (2) ARTICLE 19 OF INVESTMENT STATUTE REITERATES SAME PRINCIPLE; AND (3) GOC DELEGATION HAS RECENTLY RETURNED FROM LIMA WHERE IT LEFT NO DOUBT ABOUT SCOPE OF NEW STATUTE. SPOKESMAN ADDED, HOWEVER, THAT CHILE'S SOVEREIGN RIGHT TO ADOPT POLICIES NECESSARY TO ECONOMIC DEVELOPMENT IS NOT OPEN TO DISCUSSION, AND THAT, INDEED, BOLIVIA HAD DICTATED STATUTE IN 1971 WHICH HAD EVEN BROADER SCOPE.

3. SPOKESMAN SAID THAT GOC HAS FIRM INTENTION OF REQUESTING MODIFICATION OF DECISION 24; THAT SOME OF 24'S DISPOSITIONS SUCH AS ARTICLE 37 ON PROFIT REPATRIATION ARE "ABSURD OR ANACHRONISTIC"; AND THAT OTHER PRAGMATIC COUNTRIES ARE DISPOSED TO EFFECT THESE CHANGES.

4. COMMENT: AS NOTED REFTTEL, GOC CONTENTS PRIVATELY THAT DECISION 24 WAS NEVER PROPERLY RATIFIED IN CHILE AND THEREFOR IS NOT "VALIDLY OBLIGATORY" -- ALTHOUGH AS FAR AS WE KNOW IT HAS NOT YET SO ARGUED IN PUBLIC. GOC IS PREPARED TO ACCEPT DECISION 24 IF IT IS AMENDED TO MAKE IT MORE ATTRACTIVE TO FOREIGN INVESTMENT. IF OTHER PACT MEMBERS INSIST ON DECISION 24 AS IT STANDS, WE ASSUME GOC WILL NOT COMPLY AND PRESENT PACT WITH DILEMMA OF HOW IT SHOULD REACT.
POPPER

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